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## RECENT IMPORTANT DECISIONS

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**BILLS AND NOTES—"FICTITIOUS PAYEE"—PAYEE A PERSON NOT INTENDED TO HAVE ANY INTEREST.**—A member of a firm, authorized to sign the firm's name, made checks payable to an existing association, which he did not intend should ever gain possession of or have any interest in such checks, merely for the purpose of obtaining money for himself, which he did by unlawfully indorsing the association's name to the checks. The plaintiff firm now seek to recover the amount of the checks, charged to their account by the defendant bank, and the defense is that the payee was a "fictitious payee" under the NEGOTIABLE INSTRUMENTS STATUTE, Sec. 9 (3), and hence the checks were payable to bearer. The statute provides, "The instrument is payable to bearer \* \* \* when it is payable to the order of a fictitious or non-existing person and such fact was known to the person making it so payable." *Held*, that the defendant bank was not liable, since the checks were made payable to the name of a person not having any interest in, and not intended to become a party to, the transaction, wherefore the payee is a fictitious person under the statute and the checks were payable to bearer. *Mueller & Martin v. Liberty Ins. Bank* (Ky., 1920), 218 S. W. 465.

This case adds another jurisdiction to those of New York, Illinois, and Pennsylvania, which hold that the words "fictitious and non-existing," as used in the NEGOTIABLE INSTRUMENTS STATUTE, Sec. 9 (3), include the case of a real person, as payee, not having any right to or interest in the instrument, and who was not intended by the person inserting the name to have any. *Trust Co. of America v. Hamilton Bank*, 127 App. Div. 515; *Bartlett v. First National Bank of Chicago*, 247 Ill. 490; *Snyder v. Corn Exchange National Bank*, 221 Pa. 599. The case also fits in with the desire expressed by Professor Kulp in his article on the "Fictitious Payee," in 18 MICH. L. REV. 296, 310, that the courts of the various states should supply the defect in the NEGOTIABLE INSTRUMENTS STATUTE, by uniformly holding on this question as the New York, Illinois, and Pennsylvania courts have. Otherwise the NEGOTIABLE INSTRUMENTS ACT will fail in making uniform a very troublesome question.

**BILLS AND NOTES—RECOVERY OF MONEY PAID BY DRAWEE ON FORGED INSTRUMENT.**—One Sumner, as quartermaster in the army, had authority to draw drafts on the Treasurer of the United States. His clerk, Howard, drew such a draft, naming Sumner as payee, and forged Sumner's signature as drawer. He also unauthorizedly indorsed it with Sumner's name and negotiated the draft to a bank which sent it to defendant bank for collection and credit. On presentation to the plaintiff, as drawee, it was paid. Plaintiff, on discovering the forgery, sued to recover the amount paid to defendant. *Held*, one justice dissenting, that plaintiff could not recover. *United States v. Chase National Bank* (April 19, 1920), 40 Sup. Ct. 361.